

## Message Text

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14-11

ACTION EA-10

INFO OCT-01 ISO-00 EB-07 FEA-01 ERDA-05 AID-05 CEA-01

CIAE-00 CIEP-01 COME-00 DODE-00 FPC-01 H-02 INR-07

INT-05 L-02 NSAE-00 NSC-05 OMB-01 PM-03 SAM-01 OES-03

SP-02 SS-15 STR-04 TRSE-00 FRB-03 IO-10 OPIC-03 /098 W

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P 230935Z APR 75

FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC PRIORITY 9659

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E.O. 11652: N/A

TAGS: ETRD, MY

SUBJ: MALAYSIAN LEGISLATION ON OIL DISTRIBUTION

REF: STATE 88102

1. ON THE EVE OF HIS DEPARTURE FOR JAMAICA TO JOIN THE PRIME MINISTER AT THE COMMONWEALTH CONFERENCE, I CALLED ON ACTING FOREIGN MINISTER TENGKU RITHAUDDEEN TO INFORM HIM OF THE PROVISIONS OF UNITED STATES LEGISLATION WHICH MIGHT APPLY AS THE RESULT OF THE AMENDMENT TO THE PETROLEUM LAW PASSED BY MALAYSIAN PARLIAMENT. MON JAMALUDDIN (UNDERSECRETARY-ECONOMIC) WAS ALSO PRESENT AND TOOK DETAILED NOTES, SO I AM CONFIDENT MY STATEMENTS WILL BE REPORTED ACCURATELY AND CIRCULATED TO THE PROPER AGENCIES OF THE MALAYSIAN GOVERNMENT.

2. I OUTLINED TO RITHAUDDEEN THE PROVISIONS OF THE HICKENLOOPER AND GONZALEZ AMENDMENTS AND THE PROVISIONS OF THE TRADE ACT OF 1974 WHICH APPLY IN CERTAIN CASES OF NATIONALIZATION. I NOTED THAT PRIME MINISTER RAZAK AND PETRONAS CHAIRMAN RAZALEIGH HAD RECENTLY MADE PUBLIC STATEMENTS EMPHASIZING THAT IT WAS NOT GOM INTENTION TO NATIONALIZE

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FOREIGN COMPANIES DISTRIBUTING PETROLEUM PRODUCTS. WHILE

THIS WAS REASSURING, THERE WERE FURTHER STATEMENTS THAT THE GOVERNMENT INTENDED TO CONTROL THE INDUSTRY. THE MECHANISM TO EXERCISE THIS CONTROL UNDER THE NEW LAW STILL LEFT QUESTIONS ON WHETHER THE COMPANIES WOULD LOSE MANAGEMENT RIGHTS, AND THEREFORE WHETHER DE FACTO NATIONALIZATION WITHOUT ADEQUATE COMPENSATION HAD NOT TAKEN PLACE.

3. RITHAUDDEEN SAID THAT HE COULD ONLY REPEAT THE PRIME MINISTER'S ASSURANCES THAT IT WAS NOT THE INTENTION OF THE MALAYSIAN GOVERNMENT TO NATIONALIZE EITHER FOREIGN OR DOMESTIC COMPANIES, AND THAT IF FOR REASONS OF NATIONAL INTERESTS THIS WERE EVER NECESSARY, THE MALAYSIAN CONSTITUTION GUARANTEED PROMPT AND FAIR COMPENSATION. HE ASKED FOR THE GROUNDS ON WHICH WE MIGHT MAKE A DECISION THAT AN AMERICAN FIRM HAD BEEN DEPRIVED OF FULL ENJOYMENT OF ITS INVESTMENT. WHERE WAS THE LINE DRAWN BETWEEN ACCEPTABLE REGULATION AND CONTROL OF AN INDUSTRY, AND ACTION WHICH WOULD BRING THE PROVISIONS OF OUR LAW INTO EFFECT?

4. I SAID I WAS NOT COMPETENT TO COMMENT ON THIS LEGAL POINT, BUT THAT I THOUGHT THAT IT WOULD BE THE DEPRIVATION OF THE BASIC RIGHTS OF MANAGEMENT AND NOT APPLICATION OF GOVERNMENT CONTROLS THAT WOULD BE THE DETERMINING FACTOR. THE WAY THE GOVERNMENT EXERCISED ITS POWERS UNDER THE AMENDMENT, THEREFORE, WOULD BE OF CRITICAL IMPORTANCE.

5. RITHAUDDEEN WENT ON TO MAKE THE POINTS ADVANCED BY OTHER SUPPORTERS OF THE LEGISLATION THAT THE LAW WAS NECESSARY TO INSURE GREATER MALAYSIAN PARTICIPATION IN THE OIL INDUSTRY, INSURE ADEQUATE SUPPLY OF PETROLEUM PRODUCTS IN TIMES OF CRISIS, AND MAKE AVAILABLE TO PETRONAS THE INFORMATION NEEDED TO DISCHARGE ITS RESPONSIBILITIES TO THE MALAYSIAN PEOPLE.

6. I SAID THAT THESE OBJECTIVES WERE NOT QUESTIONED, BUT RATHER THE INSTRUMENT THE GOVERNMENT HAD DEVISED TO ATTAIN THEM. THE AMERICAN COMPANIES HAD NO REASON TO BELIEVE THE GOM WAS DISSATISFIED WITH THEIR PERFORMANCE IN THESE AREAS AND FELT THAT ADEQUATE SANCTIONS WERE ALREADY IN GOVERNMENT HANDS TO INSURE COOPERATION AND COMPLIANCE. I TOOK THE OCCASION TO GO OVER BRIEFLY OUR GENERAL CONCERN ABOUT THE IMPACT OF LIMITED OFFICIAL USE

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THIS LEGISLATION ON THE INVESTMENT CLIMATE. I NOTED THAT BUSINESSMEN IN NON-PETROLEUM FIELDS WERE WORRIED THAT THIS LAW MIGHT INDICATE A SIGNIFICANT DEPARTURE FROM MALAYSIAN GOVERNMENT ATTITUDE TOWARD FOREIGN INVESTMENT THAT HAD EXISTED SINCE INDEPENDENCE. RITHAUDDEEN ASSURED ME THAT THIS WAS NOT THE CASE, THAT THE GOVERNMENT WAS ACTIVELY SEEKING INCREASED LEVELS OF FOREIGN PARTICIPATION IN MALAYSIA'S ECONOMIC DEVELOPMENT. HE ASSURED ME HE WOULD INFORM THE PRIME MINISTER

OF THE SUBSTANCE OF OUR CONVERSATION.

7. MFA TELEPHONED EMBASSY MORNING APRIL 23 REQUESTING ON  
URGENT BASES TEXTS HICKENLOOPER AND GONZALES AMENDMENTS  
WHICH EMBASSY DOES NOT HAVE.

8. ACTION REQUESTED: PLEASE CABLE IMMEDIATELY  
TEXTS OF THESE TWO AMENDMENTS AND ANY OTHER RELEVANT  
PROVISIONS OF U.S. LAW. EMBASSY HAS COPY TRADE ACT AND  
CAN PROVIDE TEXT TITLE V TO MFA.  
UNDERHILL

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NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** PETROLEUM INDUSTRY, NATIONALIZATION, LEGISLATIVE BILLS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 23 APR 1975  
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**Disposition Approved on Date:**  
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